

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2013 OCT -2 AM 2:15

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DEMETRIUS TERRELL FREEMAN,)	
)	
Petitioner,)	
)	
v.)	CV 113-125
)	(Formerly CR 106-092)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER


After a careful *de novo* review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed (doc. no. 4). In the R&R, the Magistrate Judge recommended that Petitioner's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence be dismissed without prejudice as premature, because his direct appeal is still pending. (Doc. no. 2.) The Magistrate Judge also recommended that Petitioner be denied a certificate of appeal ("COA"), and that he be denied permission to appeal *in forma pauperis* ("IFP"). (*Id.*)

In his objections, Petitioner states that his § 2255 motion should not be dismissed and that he should not be denied a COA, because his direct appeal was denied by the Court in its Order of June 21, 2013. (Doc. no. 4.) Contrary to Petitioner's assertion, the Court's June 21st Order merely denied him leave to appeal IFP. United States v. Freeman, CR 106-092, doc. no. 132 (S.D. Ga. June 21, 2013). A review of the docket indicates that his direct appeal, USCA Case Number 12-16315-F, is still pending. (*See*

id., doc. no. 126.) Accordingly, the R&R is **ADOPTED** as the Court's opinion in this case, Petitioner's § 2255 motion is **DISMISSED** without prejudice as premature, and Petitioner is **DENIED** a COA and permission to appeal IFP.

Upon the foregoing, this civil action shall be **CLOSED**.

SO ORDERED this 2nd day of October 2013.


WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA